

REMARKS

Claims 1-24, 26, and 30 were pending in the patent application. In response to the rejection of Claim 30 under 35 USC 101, Applicants hereby cancel Claim 30. The Examiner has stated that Claims 1-2, 12-13, 16-17 and 19 are rejected under 35 USC 102(e) as anticipated by Fries; however, the text of the Office Action rejects all of the pending claims as anticipated by Fries. Clarification is requested in the form of a non-Final action.

The present invention teaches a system, method, apparatus, and broadcast stream wherein secondary content which relates to the primary content of a broadcast stream is scheduled for cyclic delivery with the primary content. The delivery of secondary content is cyclic, as detailed on page 8 of the present Specification, which means that it is sent multiple times in the course of delivery and display of the primary content. The secondary content is first delivered as part of the initial broadcast, preferably before the primary content to which it pertains. Thereafter, for those viewers who might tune in late, the secondary content is cyclically broadcast or, alternatively,

is rebroadcast to multiple requesting viewers or is narrowcast to individual requesting viewers. As set forth in independent method Claim 1 and independent system Claim 19, the invention comprises steps and means for obtaining secondary content which relates to the main primary content, for creating a schedule for cyclic delivery of the secondary data content in a predetermined relation to the non-cyclic broadcasting of the primary content; and for cyclically delivering the secondary content based on the created schedule.

The Fries patent is directed to an interactive entertainment and information system which uses a television set-top box. Under Fries, interactive pages of information are periodically provided to a user's set-top box. The pages contain active areas for user input. In the cited passage from Col. 8, Fries teaches that a page may be updated. Applicants respectfully assert that sending a new page with updated information is not the same as or suggestive of cyclically delivering the same secondary data as is expressly claimed. The cited passage from Cols. 9 and 10 describes steps for the browser to display the received Fries content. There is nothing in the cited passage that teaches or suggest that the content is cyclically delivered

to the browser. The cited passage from Cols. 11 and 12 describes sequentially displaying a series of still images. Sequential display is not the same as or suggestive of cyclic delivery. Further, the refresh teachings from Col. 12, lines 25-26 do not anticipate cyclic delivery. The Examiner has further cited teachings from Col. 13-15. Those Fries teachings detail a user purchase interaction which may involve storing the pages in the set-top box for later retrieval by polling. Polling a set-top box for stored user input is not the same as or suggestive of cyclic delivery of content. Finally, the Examiner has cited a passage from Cols. 19-20. That passage describes how Fries maps image pages to a channel. Again, there is nothing in the Fries teachings which anticipates cyclic delivery of content.

Anticipation under 35 USC 102 is established only when a single prior art reference discloses each and every element of a claimed invention. See: In re Schreiber, 128 F. 3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997); In re Paulsen, 30 F. 3d 1475, 1478-1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); In re Spada, 911 F. 2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990) and RCA Corp. v. Applied Digital Data Sys., Inc., 730 F. 2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Since Fries does not teach or suggest

creating a schedule for cyclic delivery of secondary content in a predetermined relation to the non-cyclic delivery of primary content, it cannot be maintained that Fries anticipates the invention as claimed in independent Claims 1 and 19 or in the claims which depend therefrom and add limitations thereto.

Based on the foregoing remarks, Applicants request reconsideration of the rejections, withdrawal of the rejections, and issuance of the claims.

Respectfully submitted,

O. Casile, et al

By: /Anne Vachon Dougherty/
Anne Vachon Dougherty
Registration No. 30,374
Tel. (914) 962-5910